

Applicant: Ruth L. Kauffman

Agent: N/A

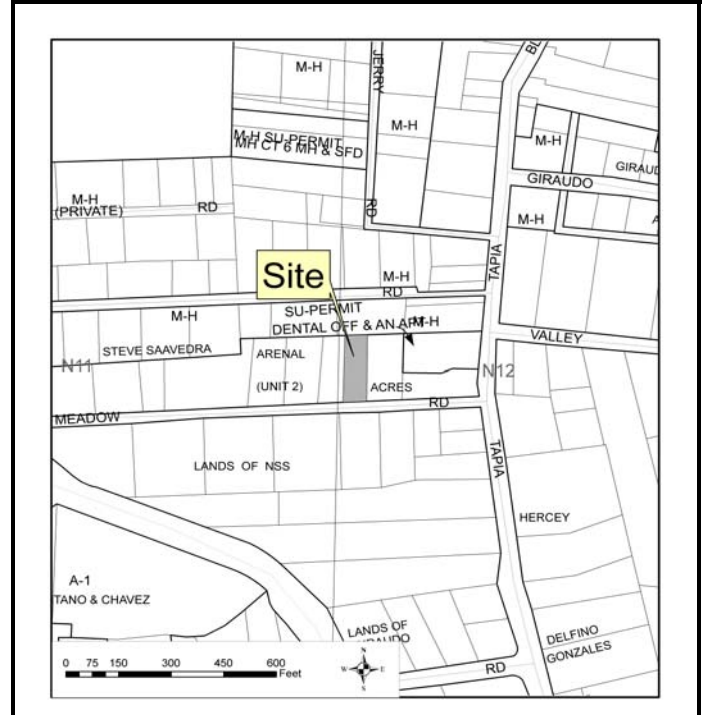
Location: 2303 Meadow Road SW

Property Size: .30 acres

Existing Zone: R-1

Proposed Zoning/SUP: Special Use Permit for a Specific Use for an Intuition (Birth Center)

Recommendation: Deferral



Summary: The applicant is seeking a Special Use Permit for a Specific Use for an Institution (midwifery & birth center) located at 2303 Meadow Road SW. The site is zoned R-1, and contains approximately .30 acres. The applicant proposes to create a birthing center, which would serve the surrounding community. At the April 5, 2006 public hearing, the County Planning Commission voted to continue this case in order to allow the applicant to meet with the surrounding neighbors in an attempt to address issues associated with the proposed use and obtain neighborhood support. On May 2, 2006, the applicant sent a letter to County staff requesting a continuance of one year in order to resolve neighborhood issues. To date, staff is unaware of any developments in this case.

Staff Planner: Enrico Gradi, Program Planner

- Attachments:**
1. Application
 2. Land Use and Zoning Maps
 3. Letters of Neighborhood Support and Opposition
 4. Letter from Applicant Requesting Continuance (Dated May 2, 2006)
 5. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from 2-28-06 to 3-13-06.
Agency comments were used in preparation of this report, which begins on page 15.

AGENDA ITEM NO.: 8
County Planning Commission
August 2, 2006

CSU-60011 Ruth L. Kauffman requests approval of a Special Use Permit for a Specific Use for an Institution (midwifery & birth center) on Lot B, Arenal Acres, located at 2303 Meadow Road SW, zoned R-1, containing approximately .30 acres. (N-11) (CONTINUED FROM THE APRIL 5, 2006 HEARING)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

Site	Zoning	Land Use
	R-1	Single Family Dwelling and Garage
North	M-H	Single Family Dwellings
South	R-1	Single Family Dwellings
East	R-1	Single Family Dwelling
West	R-1	Single Family Dwelling

BACKGROUND:

The Request

The applicant is seeking a Special Use Permit for a Specific Use for an Institution (midwifery & birth center) located at 2303 Meadow Road SW. The site is zoned R-1, and contains approximately .30 acres. The applicant proposes to create a birthing center, which would serve the surrounding community. In addition to the proposed land use request, the proposed Luna y Sol midwifery proposes to meet all guidelines and regulations from additional regulating entities. These entities include, all applicable local, state and federal codes, OSHA standards with regard to fire prevention, public safety and construction.

Additional standards from the National Association of Childbearing Centers Midwifery Regulations of the State of New Mexico Department of Public Health and the Guidelines for the practice of Midwifery by the New Mexico Midwives' Association. In addition, the proposed practice guarantees state licensure for midwives working in the facility, or state apprentice licenses as appropriate and also requires that all state and national certification will be kept current through continuing education and standards provided by the New Mexico Department of Health and the National Association of Registered Midwives.

According to the application, the proposed hours of operation for the clinic are from 9 am to 7 pm Monday through Thursday with a limit of six clients per day. The birthing center will also provide classes from Monday through Thursday from 9 to 7 pm with the addition of two nights per month until 9 pm, two weekend days a month from 10 am to 5 pm with a limit of 20 people per class and birth are to be limited to 10 per month.

Request Justification

The applicant maintains that the request is justified according to Resolution 116-86 in that the Special Use Permit is more beneficial to the community in that Policy 37 of the South west Area Plan states that public and private sectors shall work together to aid innovative programs that promote improved community services. The applicant states that the proposed use brings much needed services to the community by diminishing the barriers to access and creating an economically accessible program.

In addition, the applicant cites Goal 8 of the Albuquerque/Bernalillo County Comprehensive Plan under Human Services, which recommends locating of human service facilities in locations that provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the plan area.

Surrounding Land Use and Zoning Activity

Surrounding land use and zoning activity in this general area includes a Special Use Permit for a Dental office and two dwelling units located at with a Special Use Permit for a Dental Office located at 2325 Tapia Road SW. The site is located approximately 130 feet east of the subject site.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

The site is within the Semi Urban Area as designated in the Comprehensive Plan. The goal in the Comprehensive Plan is to "maintain the character and identify of semi urban areas, which have environmental, social or cultural conditions limiting urban land uses."

Land Use:

Policy a states that "development in the semi-urban area "shall be consistent with development limitations imposed by topography, soil conditions, groundwater quality, agricultural potential, flood potential, scenic qualities, recreation potential and existing development; the overall gross density shall be up to three dwelling units per acre."

Policy b states "development in semi-urban areas shall include trail corridors, where appropriate, and shall be compatible with economic policies and historical and socio-cultural values, and shall maintain and integrate existing and new buildings and spaces of local significance into the community."

Policy c states that

- "Mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities."

- “Strip commercial development is discouraged in favor of clustered commercial development.”

Human Services

The Goal for this section is to “site human service facilities in locations that provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the plan area.”

Southwest Area Plan (SWAP)

The site is located in Residential Area Three of the Southwest Area Plan.

Policy 26 (g) allows a maximum residential density of three dwelling units per net acre when city sewer services are available.

- f. Prohibit excessive cuts and fills that scar the natural landscape and create unstable soil and erosion conditions.

Policy 19 states “All development and subdivisions shall be required to limit the level of water runoff generated from new construction or paving in order to reduce velocity and volume of runoff, and to ensure the viability and capacity of down stream facilities.

Policy 25 states “The County and City stabilize residential zoning and land use in the plan area.”

- g. Encourage stabilization of residential land use through subdivision design and scale.

Policy 30 states, “Standards for outdoor lighting shall be implemented to ensure that their use does not interfere with the night sky environment and unnecessarily adjacent properties.”

- a. Outdoor light poles within residential areas should not exceed sixteen (16) feet in height above existing grade; when mounted on buildings or structures, fixtures should not exceed twelve (12) feet from existing grade.
- b. Encourage landscaped areas within lots to break up large expanses of paved area and enhance pedestrian access.

Policy 32 states... “Increase the visual character and quality of the streetscape and overall development by encouraging enhanced use of required perimeter walls.”

- a. Discourage long expanses of uninterrupted wall surface and encourage walls to be indented, offset, or in a serpentine form to avoid a tunnel effect.

Policy 37 states, Public and Private sectors shall work together to aid innovative programs that promote improved community services.”

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted BCC Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans, which have been adopted by the BCC.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the BCC.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request, which would give a zone different from the surrounding, zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18 Special Use Permit Regulations

- A. By Special Use Permit after receipt of a recommendation from the County Planning Commission, the Board of County Commissioners may authorize the location of uses in any one in which they

are not permitted by other sections of this ordinance; the Board of County Commissioners may likewise authorize the increase in height of buildings beyond the limits set fourth by sections of the zoning ordinance. With such permits, the Board of County Commissioners may impose limitations as it deems necessary:

1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located.
2. To ensure the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
5. The County Planning Commission must review the Special Use Permit and progress of development from the date of approval and each year thereafter until completion of the plan, and if needed make a recommendation to the Board of County Commissioners to continue of revoke the Special Use Permit.

B. Such Special Use Permits may authorize the following uses:

32. Specific Use.

- a. (Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14 or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use
- C. The Board of County Commissioners must review the Special Use Permit and progress of development from the date of approval and each year thereafter until completion of the plan, and if needed make a recommendation to the Board of County Commissioners to continue of revoke the Special Use Permit Application procedures
1. An application for a Special Use Permit shall be filed with the County Zoning, Building and Planning Department on forms prescribed by the Department and accompanied by all relevant data and information. Incorrect or incomplete information may be cause for denial or deferral and may delay the review and hearing process. It is recommended that the applicant consult with the County Zoning or Planning staff before filing an application to be informed of any requirements of policies relevant to the request.

Section 9. R-1 Single Family Residential Zone
Permissive Uses

- a. Agricultural activity, including truck gardening and nurseries, fur bearing animal farm. The raising farming, livestock grazing, feeding, and the raising of livestock on lots containing three acres or more. On lots of less than three acres, there shall be at least 10,000 square feet of lot area for each cow or horse, and/or at least 4,000 square feet of lot area for each sheep, pig, or goat, provided that any building, pen, or corral where such animal is located is at least 20 feet from any existing dwelling unit. Stands for the display or sale of home-raised agricultural products, including poultry or rabbits raised on the premises.
- b. One single-family dwelling or H.U.D. Zone Code II manufactured home per lot.
- c. Accessory building, structure, or use customarily incidental to the above uses, such building or structure shall be limited to an area of 600 square feet or less.
- d. Noncommercial library, museum, and art gallery.
- e. Recreational vehicle or boat storage in the rear yard when such vehicle or boat is not to be used as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Recreational vehicle used for dwelling purposes serves only by electricity for lighting purpose, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year.

Section 12. O-1 Office and Institutional Zone.

A. The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section, are the regulations in the O-1 Office and Institutional Zone. The purpose of this zone is to provide sites suitable for office, service, and institutional uses.

B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site:

2. Permissive Uses:

a. Any permissive use as allowed and as regulated in the R-1 Single-Family Residential Zone and the following

(8) Institution, including library, museum, nursing or rest home, school, day care center, and family day care home.

Section 19 Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a conforming residential use, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.

1. Sites of one acre or less:

- a. There shall be a landscaped setback along all streets of no less than ten feet.
- b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback may contribute toward this requirement.

2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of not less than 15 feet. All other requirements are the same as 1.b and 1.c above.
3. Sites of five acres or more:
 - a. There shall be a landscaped setback along all streets of no less than 20 feet.
 - b. The landscaped setback shall not be counted toward the landscaping required as a result of paving.
 - c. All other requirements [shall be the] same as 1.b. and 1.c. above.

ANALYSIS:

Surrounding Land Use and Zoning

The subject site is located adjacent to R-1 zoning on south, east and west sides of the site. The site located directly north of the subject site is zoned M-H and has a Special Use Permit for a Dental Office and an Apartment.

Plans

Albuquerque/Bernalillo County Comprehensive Plan

Policy a states that “development in the semi-urban area is be consistent with development limitations imposed by topography, soil conditions, groundwater quality, agricultural potential, flood potential, scenic qualities, recreation potential and existing development.” The overall gross density is recommended to be up to three dwelling units per acre in this part of the valley. In addition, Policy c states, “mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities.”

The Human Services Goal recommends that human service facilities be located to provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the plan area.”

Southwest Area Plan (SWAP)

SWAP Policy 44 promotes small scale community commercial centers which foster a market place atmosphere; improve profit for small businesses; provide jobs; and circulate dollars within the area economy to enhance a community environment and meet retail, recreational and service needs of South Valley residents. In addition, policy 42 states, that public and private sectors shall work together to aid innovative programs that promote improved community services.”

Additional policies in the SWAP call for an increased quality of the streetscape and overall development by encouraging enhanced use of required perimeter walls and streetscape.

Zoning Ordinance

Section 12 of the zoning ode is the O-1 Office and Institutional Zone. The purpose of this zone is to provide sites suitable for office, service, and institutional uses. The proposed use is a permissive use in this category. The purpose of this zone is to provide sites suitable for office, service, and institutional uses. Permissive uses for the O-1 zone include any permissive use as allowed and as regulated in the R-1 Single-Family Residential Zone and Institution, including library, museum, nursing or rest home, school, day care center, and family day care home.

Section 19 of the Zoning Ordinance, which deals with the landscaping and buffer landscaping regulations, requires that landscaping be required in all zones for industrial commercial and multifamily uses. Currently, the site plan contains this requirement. On sites of one acre or less a landscaped setback of no less that ten feet is required along all streets. The site is located along

Meadow Road, which appears to be approximately ten feet wide, however the area is not currently landscaped.

Section 19 (A) (1) (b) requires that a landscaped buffer of six feet between single-family residential uses and commercial uses is required.

Agency Comments

The Bernalillo County Office of Environmental Health (BCOEH) comments state that the applicant is required to submit the following information in the form of plans and checklists. A hazardous bio-medical waste disposal [syringes, clothing, soiled gauze, empty vials, etc. Acquire all certifications and licensing as required in Bernalillo County and the State of NM. In addition, BCOEH states that public water and sewer is available and connected to the site. Sewer pretreatment may be required.

The Public Works Division states that this property appears to be within a designated 100-year floodplain as shown on the National Flood Insurance Program's Flood Insurance Rate Map. A grading and drainage plan prepared by an engineer registered in the State of New Mexico will be required with additional development.

Elevation Certificates prepared by a surveyor registered in the state of New Mexico are required of any future structure(s) or structure addition(s) with substantial improvements (50%) within a floodplain. Future structures and or additions must be at or above the Base Flood Elevation (BFE) as determined by the Flood Insurance Rate maps (FIRMs) prepared for this area.

The application states that off-street parking will be provided for 8 cars. It also states that two days a month that classes of up to 20 persons will be held at this site. The additional number of cars requiring on-street parking may create an on-street parking problem for Meadow Road.

A traffic site plan with parking spaces must be submitted and approved that will accommodate parking on the proposed commercial development site. Any additional driveways to the site will require access permits from BCPWD.

Analysis Summary

Zoning	
Resolution 116-86	Resolution 116-86 requires that a land use change must clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan. The Albuquerque/Bernalillo County Comprehensive Plan policy i calls for employment and service uses to be located so as to complement residential areas and be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments. The proposed site plan does not depict ample parking for peak attendance for classes.
Section 18.B.32.a	Substantial Neighborhood Support
Plans	
Comprehensive Plan	<p>Policy c states, "mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities."</p> <p>The Human Services Goal recommends that human service facilities be located to provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the plan area."</p>

Area Plan	Southwest Area Plan policy 42 states, that public and private sectors shall work together to aid innovative programs that promote improved community services.”
Other Requirements	
Environmental Health	The applicant is required to submit a hazardous bio-medical waste disposal [syringes, clothing, soiled gauze, empty vials, etc. The applicant must also acquire all certifications and licensing as required in Bernalillo County and the State of NM and secure any Bernalillo County EH Office Food Service permits as required.
Public Works	Property appears to be within a designated 100-year floodplain as shown on the National Flood Insurance Program's Flood Insurance rate Map. A grading and drainage plan prepared by an engineer registered in the State of New Mexico will be required with additional development.

Conclusion

Resolution 116-86 establishes policies regarding zone change and Special Use Permit requests. The Resolution states that the applicant must demonstrate that the existing zoning is inappropriate because of an error in the zone map, changed conditions in the neighborhood or community which justifies a change in land use or that a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the BCC.

Based on Resolution 116-86 it does appear that the proposed land meets the requirement of facilitating revitalization of the Comprehensive Plan and the Southwest Area Plan. This request may be interpreted as consistent with Resolution 116-86 in that this land use is more advantageous to the community in that it encourages a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel as articulated in Policies 3.g, 6.a, 6.b & 6.g of the Albuquerque/Bernalillo County Comprehensive Plan. In addition, Southwest Area Plan policy 42 states that public and private sectors shall work together to aid innovative programs that promote improved community services.

The Human Services Goal recommends that human service facilities be located to provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the plan area. The Albuquerque/Bernalillo County Comprehensive Plan policy i calls for employment and service uses to be located so as to complement residential areas and be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.

Given the nature and appearance of the applicants request, it appears that this use may provide a needed service to this area of the South Valley, however, Resolution 116-86 requires that unique conditions exist that justify the request and there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use. The applicant has submitted a petition of neighborhood support, which contains signatures from residents from within close proximity of the site, but not within 200 feet.

ADDITIONAL STAFF COMMENT: (AUGUST 2, 2006)

At the April 5, 2006 public hearing, the County Planning Commission voted to continue this case in order to allow the applicant to meet with the surrounding neighbors in an attempt to address issues associated with the proposed use and obtain neighborhood support. On May 2, 2006, the applicant sent a letter to County staff requesting a continuance of one year in order to resolve neighborhood issues. To date, staff is unaware of any developments in this case either with the applicants or the surrounding community.

RECOMMENDATION:
Deferral of CSU-60011.

Enrico Gradi
Program Planner

BERNALILLO COUNTY DEPARTMENT COMMENTS

Environmental Health:

The applicant is required to submit the following information in the form of plans and checklists.

1. Hazardous bio-medical waste disposal [syringes, clothing, soiled gauze, empty vials, etc.] requested for Health and Sanitation practices on-site to curtail any pathogens and diseases.
2. Hazardous bio-medical waste disposal [placentas, blood, liquids and fluids, and any other human produced waste] requested for Health and Sanitation practices on-site to curtail any pathogens and diseases.
3. Acquire all certifications and licensing as required in Bernalillo County and the State of NM.
4. Acquire any Bernalillo County EH Office Food Service permits as required. May include the following requirements: a floor plan, site plan, meal menu, kitchen set-up including cooking and sanitation practices.
5. Public water and sewer is available and connected to the site. Sewer Pretreatment may be required, contact the COA pretreatment engineer at 768-2000 for instructions on pretreating any potential bio-medical liquid wastes that are put into the sewer system.

Building Manager:

Building permits will be required for the proposed addition. Architect sealed plans will be required for submittal of building permits.

Fire:

No comment received.

Zoning Enforcement Manager:

Must comply with below listed comments.
shall submit a complete landscape plan and shall meet landscaping regulations.

Shall comply with the Off-Street Regulations.

Plan currently shows eight off- street parking areas, however handicapped parking shall consist of a durable hard surface consisting of concrete material and/or bituminous material to meet ADA requirements. Handicapped parking should be next to building area.

Note:

Current zoning violation on property /operating a commercial business without proper permitting and zoning requirements.

No other adverse zoning comments .

Public Works:

DRAN

1. This property appears to be within a designated 100-year floodplain as shown on the National Flood Insurance Program's Flood Insurance rate Map.
2. A grading and drainage plan prepared by an engineer registered in the State of New Mexico will be required with additional development.
3. "Elevation Certificates prepared by a surveyor registered in the state of New Mexico are required of any future structure(s) or structure addition(s) with substantial improvements (50%) within a floodplain. Future structures and or additions must be at or above the Base Flood Elevation (BFE) as determined by the Flood Insurance Rate maps (FIRMs) prepared for this area.

DRE

The application states that off-street parking will be provided for 8 cars. It also states that two days a month that classes of up to 20 persons will be held at this site. The additional number of cars requiring on-street parking may create an on-street parking problem for Meadow Road.

A traffic site plan with parking spaces must be submitted and approved that will accommodate parking on the proposed commercial development site. Any additional driveways to the site will require access permits from BCPWD.

Parks & Recreation:

No adverse comment

Sheriff's:

No comment

COMMENTS FROM OTHER AGENCIES

MRGCOG:

No adverse comment

AMAFCA:

No adverse comment

City Planning:

If this Special Use Permit is approved, applicant must change the current water/sewer account to Institutional type account

City Public Works:

Transportation:

Utilities:

If this Special Use Permit is approved, applicant must change the current water/sewer account to Institutional type account.

Transit:

No comments

City Open Space:

No adverse comment

City Environmental Health:

No comment.

New Mexico State Highway Department:

No comment

NEIGHBORHOOD ASSOCIATIONS:

The South Valley Coalition of Neighborhood Associations

The South Valley Alliance